



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2012-0223; FRL– 9758-8]

Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard and Diesel Sulfur Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: EPA published a direct final rule on October 9, 2012 to amend the definition of heating oil in 40 CFR 80.1401 in the Renewable Fuel Standard (“RFS”) program under section 211(o) of the Clean Air Act. The direct final rule also amended requirements under EPA’s diesel sulfur program related to the sulfur content of locomotive and marine diesel fuel produced by transmix processors, and the fuel marker requirements for 500 ppm sulfur locomotive and marine (LM) diesel fuel to allow for solvent yellow 124 marker to transition out of the distribution system. Because EPA received adverse comments on the heating oil definition and transmix amendments, we are withdrawing those portions of the direct final rule. Because EPA did not receive adverse comments with respect to the yellow marker amendments, those amendments will become effective as indicated in the direct final rule.

DATES: Effective [insert date of publication in the Federal Register], EPA withdraws the amendments to 40 CFR 80.511, 80.513, 80.572, 80.597, 80.1401, 80.1450, 80.1451, 80.1453, 80.1454, and 80.1460 published at 77 FR 61281 (October 9, 2012).

Because EPA did not receive adverse comments with respect to the amendments to 40 CFR 80.510, 80.598, 80.610, and 80.1426, those amendments will become effective on December 10, 2012, as indicated in the direct final rule.

FOR FURTHER INFORMATION CONTACT: Kristien Knapp, Office of Transportation and Air Quality, Mail Code: 6405J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, 20460; telephone number: (202) 343-9949; fax number: (202) 343-2800; email address: knapp.kristien@epa.gov.

SUPPLEMENTARY INFORMATION:

EPA published a direct final rule on October 9, 2012 (77 FR 61281) to amend provisions in the renewable fuel standard (RFS) and diesel sulfur fuel programs. The RFS amendment would have changed the definition of home heating oil. The diesel sulfur amendments would have provided additional flexibility for transmix processors who produce locomotive and marine diesel fuel, and allowed solvent yellow 124 marker to transition out of the distribution system. We stated in the direct final rule that if EPA received timely adverse comment or a hearing request on the rule or any specific portion of the rule, we would publish a withdrawal of the rule or a specific portion of the rule in the *Federal Register* informing the public that the rule or portions of the rule with adverse comment will not take effect. We subsequently received adverse comment on the RFS heating oil amendments and the diesel transmix amendments. We did not receive adverse comment on the yellow marker amendments to 40 CFR 80.510, 80.598, 80.610, or the RFS requirement for RIN generation, as amended in 40 CFR 80.1426. Therefore, EPA is withdrawing the direct final rule with respect to the RFS heating oil amendments and the diesel sulfur transmix amendments, but leaving in place the direct final rule with

respect to 40 CFR 80.510, 80.598, 80.610, and 80.1426. Those regulatory amendments will take effect on December 10, 2012.

EPA intends to address all comments received on the RFS heating oil and diesel transmix amendments in subsequent final actions, which will be based on the parallel proposed rule also published on October 9, 2012 (77 FR 61313). As stated in the direct final rule and the parallel proposed rule, we will not institute a second comment period on this action.

Dated: November 30, 2012

Lisa P. Jackson,
Administrator

Accordingly, the regulatory amendments to 40 CFR 80.511, 80.513, 80.572, 80.597, 80.1401, 80.1450, 80.1451, 80.1453, 80.1454, and 80.1460 published on October 9, 2012 (77 FR 61281) are withdrawn. The regulatory amendments to 40 CFR 80.510, 80.598, 80.610, and 80.1426 will take effect on December 10, 2012.

[FR Doc. 2012-29512 Filed 12/05/2012 at 8:45 am; Publication Date: 12/06/2012]